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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:
Date: September 23, 2004 Name: Robert S. Mallin, Reg. No. 35,596 Signature: *Robert S. Mallin*

**BRINKS
HOFER
GILSON
& LIONE**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: **EVERTS, et al.**

Appln. No.: **10/666,924**

Filed: **September 19, 2003**

For: **OPERATOR CARRIED POWER TOOL
HAVING A FOUR-CYCLE ENGINE AND
AN ENGINE LUBRICATION METHOD**

Attorney Docket No: **10512/41**

Examiner: **N. Kamen**

Art Unit: **3747**

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ Terminal Disclaimer;
- ☒ Return Receipt Postcard

Fee calculation:

- ☐ No additional fee is required.
- ☐ Small Entity.
- ☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
- ☐ A petition or processing fee in an amount of \$_____ under 37 C.F.R. § 1.17(_____).
- ☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$9=			x \$18=	
Indep.		Minus			x 43=			x \$86=	
First Presentation of Multiple Dep. Claim					+\$145=			+\$290=	
					Total	\$		Total	\$

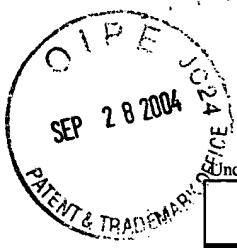
Fee payment:




- ☒ A check in the amount of **\$110** is enclosed.
- ☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
- ☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
- ☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

September 23, 2004
Date

Respectfully submitted,

Robert S. Mallin
Robert S. Mallin (Reg. No. 35,596)



TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT		Docket Number (Optional) 10512/41				
In re Application of:	EVERTS, et al.					
Application No.	10/666,924					
Filed:	09/19/2003					
For:	OPERATOR CARRIED POWER TOOL HAVING A FOUR-CYCLE ENGINE AND AN ENGINE LUBRICATION METHOD					
<p>The owner*, <u>MTD Southwest, Inc.</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent Nos. <u>6,622,688</u>; <u>5,950,590</u>; <u>5,738,063</u>; and <u>5,241,932</u>. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</p> <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney of record.</p> <table border="0" style="width: 100%;"><tr><td style="width: 50%; text-align: center;"><u>September 23, 2004</u> Date</td><td style="width: 50%; text-align: center;"> Signature</td></tr><tr><td></td><td style="text-align: center;"><u>Robert S. Mallin, Reg. No. 35,596</u> Typed or Printed Name</td></tr></table> <p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) is included.</p> <p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.</p>			<u>September 23, 2004</u> Date	 Signature		<u>Robert S. Mallin, Reg. No. 35,596</u> Typed or Printed Name
<u>September 23, 2004</u> Date	 Signature					
	<u>Robert S. Mallin, Reg. No. 35,596</u> Typed or Printed Name					

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